

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND-ODESSA DIVISION

UNITED STATES OF AMERICA	)	MO-08-CR-151
	)	
VS.	)	<b>Sentencing</b>
	)	
MICHAEL TIMOTHY LONG	)	December 16, 2008

BEFORE THE HONORABLE ROBERT JUNELL  
UNITED STATES DISTRICT JUDGE  
In Midland, Texas

**FOR THE GOVERNMENT:**      **MS. KERRY A. FLECK**  
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**FOR THE DEFENDANT:**      **MR. MICHAEL L. MCLEAISH**  
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**COURT REPORTER:**      **MR. TODD ANDERSON, RMR, CRR**  
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INDEX

Court's ruling..... 8

1 (December 16, 2008)

2 (Defendant present)

3 THE COURT: Clerk, call the next case, please.

4 THE CLERK: Court calls MO-08-CR-151, the United  
5 States of America versus Michael Timothy Long.

6 MS. FLECK: Kerry Fleck on behalf of the  
7 Government.

8 MR. McLEAISH: Your Honor, I'm Michael McLeaish,  
9 representing Mr. Long.

10 THE COURT: Mr. Long, state your name for me,  
11 please, sir.

12 THE DEFENDANT: Michael Timothy Long.

13 THE COURT: Mr. Long, are you the Defendant in  
14 this case?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Did you receive a copy of the written  
17 presentence investigation report?

18 THE DEFENDANT: Yes, Your Honor, I did.

19 THE COURT: Did you read that report?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: And did you discuss that report with  
22 your attorney?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: And, Mr. McLeaish, did you receive a  
25 copy of the report and discuss it with your client?

1 MR. McLEAISH: Yes, I did, Your Honor.

2 THE COURT: And, Mr. McLeaish, does the Defendant  
3 have any objections or corrections to the report?

4 MR. McLEAISH: No.

5 THE COURT: And, Ms. Fleck, does the Government  
6 have any objections to the report?

7 MS. FLECK: No, Your Honor.

8 THE COURT: I have reviewed the presentence  
9 investigation report prepared by U.S. Probation Officer  
10 Lorena Toscano. I find the report accurate and correct, and  
11 I adopt the report and the application of the Sentencing  
12 Guidelines contained in the report.

13 The total offense level is a 15.

14 The criminal history category, a 1.

15 The guideline range for custody is 18 to 24  
16 months.

17 The Defendant is ineligible for probation.

18 The guideline range for supervised release is two  
19 to three years.

20 The guideline for a fine is \$4,000.00 to  
21 \$40,000.00.

22 Restitution is not applicable.

23 And the special assessment to the Crime Victims  
24 Fund is \$100.00.

25 Mr. Long, I would be glad to hear from you and

1 Mr. McLeaish on anything you would like for me to know  
2 before I pronounce sentence in your case.

3 THE DEFENDANT: Well, sir, I would like to  
4 apologize to the family that I committed the crime against.  
5 It was very wrong. I want to apologize to my family for the  
6 burden that I have placed upon them. They've stood by me  
7 through this also.

8 THE COURT: Do you have some family here today?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Would you introduce them to me,  
11 please?

12 THE DEFENDANT: My -- I'm sorry, I've been sick  
13 for the past five days.

14 THE COURT: Okay.

15 THE DEFENDANT: My father and my mother, my wife,  
16 my sister, and my niece.

17 THE COURT: I appreciate all of them being here  
18 today very much. I appreciate all of them being here.

19 All right. Anything else you would like for me to  
20 know?

21 THE DEFENDANT: I just would like to apologize to  
22 the Court for what I did and everybody forgive me today.

23 Mr. McLeaish, what would you like to add?

24 MR. McLEAISH: I'm sick as well, Your Honor, and  
25 excuse me.

1 THE COURT: Okay.

2 MR. McLEAISH: I really have not spoken much  
3 today.

4 THE COURT: You won't mind if we don't have a  
5 bench conference then, do you?

6 MR. McLEAISH: Mr. Wade suggested I call for one,  
7 but I told him I would rather not. That's fine, Your Honor.

8 In connection with Mr. Long, Your Honor, all the  
9 evidence I see, including the letters that the Court has in  
10 your possession, one of the letters was from an ex-deputy  
11 sheriff or an ex-elected sheriff of Ector County, Reggie  
12 Yearwood.

13 Mr. Long has lived a life free of crime until this  
14 incident that brings us to court today.

15 I would like to point out to the Court that he is  
16 a skilled machinist. He will have work available when he  
17 serves his sentence. He has no trouble working.

18 He seems to be a good family man. Many of the  
19 letters you have are from members of his family, and they  
20 all show great care for Mr. Long. And I know just based on  
21 all the calls I've had from his mom and his sister and his  
22 wife throughout these proceedings they all love him very  
23 much.

24 I would like to point out as well, Your Honor --  
25 and I don't know if you have in your possession or not.

1     There was a psychological evaluation prepared by Perry  
2     Marchioni, and one sentence in it that is of particular  
3     interest I hope to the Court, it states that in conclusion  
4     he shows no evidence of any kind of behaviors consistent  
5     with dangerousness at the present time.

6             So I would urge the Court to grant as low a  
7     sentence as you can within the realms of justice. And  
8     that's all I have.

9             THE COURT: Okay. And I did get a number of  
10    letters from family and friends, and they all speak very  
11    highly of you, Mr. Long. You're a fortunate man that they  
12    are standing behind you when times aren't going so good.

13            THE DEFENDANT: Yes, Your Honor.

14            THE COURT: Ms. Fleck, what would the Government  
15    like to add?

16            MS. FLECK: Your Honor, I would just like the  
17    Court to know that I did meet with the victim and her mother  
18    in this case, and I've also met with Mr. Long previously  
19    along with Agent Morales and spoken to him, and he has been  
20    cooperative and remorseful.

21            And the victim and her mother did want to let the  
22    Court know that they do forgive him as well. They were all  
23    friends. Both of their families were friends.

24            And it's an unfortunate incident that -- it's a  
25    quite severe crime that he committed; however, the family

1 did not want to see him go to prison for a long time, and  
2 they did not want to put the child through a trial. And  
3 because of all of those -- all of those factors, we decided  
4 to dismiss Count One, which actually carried -- I believe it  
5 was a 10-year minimum mandatory sentence.

6 I just would like Your Honor to take that into  
7 consideration when you're deciding how to sentence him  
8 today. I'm not necessarily asking that he be sentenced on  
9 the high end of the guidelines; however, he did receive a  
10 substantial break because of his cooperation in part but  
11 mostly the wishes of the victim and her family. And I just  
12 wanted to convey that to the Court.

13 THE COURT: Thank you very much.

14 I'm not departing from the recommended sentence.

15 Pursuant to the Sentencing Reform Act of 1984,  
16 which I have considered in an advisory capacity, and the  
17 sentencing factors set forth in 18, United States Code,  
18 Section 3553(a), which I have considered in arriving at a  
19 reasonable sentence -- and I do find the guideline range in  
20 this case to be fair and reasonable -- the following  
21 sentence is imposed:

22 Michael Timothy Long is placed in the custody of  
23 the U.S. Bureau of Prisons to serve a term of imprisonment  
24 of 21 months.

25 Big -- do you want to --



1 THE DEFENDANT: Big Spring is fine with me.

2 THE COURT: I'll recommend Big Spring, that you  
3 get education and job training.

4 Upon release from the Bureau of Prisons, you're  
5 placed on supervised release for a term of three years.

6 The general terms of supervised release are those  
7 set for the U.S. Courts for the Western District of Texas.  
8 The special terms of supervised release are as follows:

9 You shall not be permitted to reside anyplace  
10 where firearms are possessed or stored. You shall abstain --  
11 means you cannot use alcohol or any other intoxicant during  
12 the term of supervised release.

13 You shall attend and participate in a mental  
14 health treatment program and/or sex offender treatment  
15 program as approved and directed by your probation officer.  
16 You shall abide by all program rules, requirements, and  
17 conditions of the sex offender treatment program, including  
18 submission to polygraph testing at your own expense to  
19 determine if you're in compliance with the conditions of  
20 release.

21 You shall follow all other lifestyle restrictions  
22 or treatment requirements imposed by the therapist and  
23 continue those restrictions as they pertain to avoiding risk  
24 situations throughout the course of supervision. This  
25 includes not residing or going to places where minor or

1 minors are known to frequent without the prior approval of  
2 your probation officer.

3           You shall not possess or use a computer with  
4 access to online computer service at any location, including  
5 employment, without the prior written approval of your  
6 probation officer. This includes any Internet service  
7 provider, bulletin board system, or any other public or  
8 private computer network.

9           You will not have contact with children under the  
10 age of 18 unless the contact is approved and authorized in  
11 advanced by a U.S. probation officer and supervised by a  
12 person approved by the U.S. probation officer.

13           You shall refrain from purchasing, possessing, or  
14 using any sexually stimulating or sexually oriented  
15 materials, including, but not limited to, pornographic  
16 books, magazines, photographs, films, videos, DVDs, and  
17 computer programs or any other media for portrayal of the  
18 same.

19           And you shall reside in a residence approved in  
20 advance by your probation officer, and any changes in  
21 residence must be pre-approved by your probation officer.

22           I find that you do not have the ability to pay a  
23 fine.

24           You are required to pay the mandatory special  
25 assessment to the Crime Victims Fund of \$100.00.

1           Mr. Long, you have the right to appeal your  
2 sentence and conviction assuming your rights to appeal were  
3 not given up or waived as part of your plea agreement in  
4 this case. If you cannot afford an attorney to represent  
5 you on appeal, an attorney will be appointed for you.

6           With few exceptions, any notice of appeal must be  
7 filed within ten days from today in writing. And if you  
8 cannot afford it, a transcript of the record in this case  
9 will be prepared for appeal at the Government's expense.

10           I want to add one more special condition to your  
11 supervised release, and, that is, you will not have any  
12 contact with the minor girl who was involved in this  
13 incident or her family during the term of your supervised  
14 release.

15           Ms. Fleck, does the Government want to dismiss  
16 Count One of the indictment?

17           MS. FLECK: Yes, Your Honor.

18           THE COURT: Count One of the indictment as it  
19 pertains to Mr. Long is dismissed with prejudice on motion  
20 of the Government.

21           Mr. McLeaish, anything else?

22           MR. McLEAISH: Nothing further, Your Honor.

23           THE COURT: Good luck to you, Mr. Long.

24           At this time you're remanded back to the custody  
25 of the United States Marshals. Thank you. Appreciate your

1 family being here today very much.

2 (Hearing adjourned)

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1 I, TODD ANDERSON, United States Court Reporter for the  
2 United States District Court in and for the Northern  
3 District of Texas, Dallas Division, hereby certify that the  
4 above and foregoing contains a true and correct  
5 transcription of the proceedings in the above entitled and  
6 numbered cause.

7 WITNESS MY HAND on this 7th day of November, 2016.  
8  
9

10 /s/Todd Anderson

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